# BELLSOUTH REPLY COMMENTS

**WC Docket No. 04-313**
**CC Docket No. 01-338**

**October 19, 2004**

# Attachment 7

**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Unbundled Access to Network Elements | ) | WC Docket No. 04-313 |
| | ) | |
| Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers | ) | CC Docket No. 01-338 |
| | ) | |

# REPLY AFFIDAVIT OF NANCY STARCHER ON BEHALF OF BELLSOUTH TELECOMMUNICATIONS INC.

**FILED OCTOBER 19, 2004**

Nancy Starcher, being duly sworn, deposes and says:

1. My name is Nancy Starcher. I am employed by BellSouth Telecommunications, Inc. ("BellSouth") as Director, BellSouth Interconnection Services, Transport Product Marketing. I am responsible for the introduction of new and enhanced products and services, and the group in which I work is responsible for the analysis and design of integrated transport solutions across the BellSouth region.

2. I am a graduate of the University of Kentucky and have a Bachelor of Science degree in Civil Engineering. I have been employed by BellSouth since 1986 and have worked in various capacities at the company, including Circuit Administration, Outside Plant Planning, and Infrastructure Planning.

3. The purpose of this affidavit is to provide an overview of BellSouth's special access offerings. In so doing, I refute allegations by AT&T Corp. ("AT&T") that BellSouth's special access services: (i) provide "limited rate stability"; and (ii) contain "poison pills designed to prevent competition." I also rebut claims by the Loop and Transport CLEC Coalition that: (i) attractive special access discounts are "unavailable as a practical matter to CLECs that plan to construct their own facilities as conditions permit"; and (2) facilities-based CLECs are being "locked out" of the market for wholesale services. Finally, I address claims about special access pricing raised by Cbeyond.

4. BellSouth currently offers three primary plans to special access customers that provide discounts based on the term length commitment of the plan. These three plans are the Area Commitment Plan ("ACP"), the Transport Payment Plan ("TPP"), and the Channel Services Payment Plan ("CSPP"). Together, these three plans, which are described briefly below, cover approximately 80% of BellSouth's special access revenues.

**Area Commitment Plan**

5. The ACP allows customers who have obtained service on a month-to-month basis to receive reduced rates, in the form of ACP credits, in exchange for a commitment to maintain a level of service for a specified period of time. The terms of this plan apply to special access services or switched transport access services that are available under an ACP, except as noted in the rate regulations for a service. Services included in a Channel Services Payment Plan (CSPP) and/or a Transport Payment Plan (TPP) may not be included in an ACP or vice versa. The customer determines the commitment level of rate elements that will be included in an ACP, i.e., the customer will provide the number of commitment rate elements expressed as a whole number (e.g., 12 DS1 Local Channels). The customer may desire to establish a

commitment level only for a small portion of the rate element services.

6. ACP commitment terms range from 24 months to 72 months, at the customer's discretion. ACP Plan A, which requires a commitment period of 24 months to 48 months, offers slightly smaller discounts than ACP Plan B, which requires a commitment period of 49 months to 72 months. The discounts available under the ACP vary by rate element. Generally speaking, though, discounts associated with ACP Plan A are approximately 23 percent, while discounts associated with ACP Plan B are approximately 28 percent. The actual discounts associated with each particular ACP plan are specified in the ACP plan rates for the relevant service element, and can be found in Section 6 (Switched Access (SWA) Dedicated Transport Services), Section 7 (Special Access (SPA) Transport services), or Section 23 (SPA or SWA Dedicated Transport Services in the full relief Phase II pricing flexibility MSAs) of BellSouth's Tariff FCC No. 1.

7. The ACP is thus a non-circuit-specific term commitment plan typically applicable to DS1 and lower level circuits (Switched Access dedicated transport DS3s are also eligible for the ACP). ACP commitments are made on a regional (i.e., footprint wide) basis, with billing credits distributed to billing areas (i.e., states) based on each billing area's portion of ACP-eligible in-service billing units. The customer has complete discretion to choose the number of channel terminations (i.e., local channels), interoffice miles, and/or

multiplexer rate elements to commit under an ACP, and there is no minimum quantity to which the customer must commit in order to obtain the benefits of the ACP. The customer may have multiple active ACPs at any time, and may increase its commitment under any active ACP at any time without penalty. ACP credits are applied only to the number of units committed, not to (and regardless of) the customer's dollar expenditures.

**The Transport Payment Plan**

8. The Transport Payment Plan or TPP allows customers to obtain specific special access services at stabilized, discounted monthly rates for fixed service periods anywhere from 12 months to 96 months in length, as selected by the customer. Tariff FCC No. 1 § 2.4.8(D)(1)(b). The services available under the TPP are BellSouth Point to Point Network Service (i.e., "LightGate® Service"), BellSouth Dedicated Ring Service (i.e., "SMARTRing® Service"), BellSouth Native Mode LAN Interconnection Service ("NMLI"), BellSouth DS1 Diverse Service, and BellSouth Wavelength Service. *Id.* § 2.4.8(D)(1)(a).

9. The TPP is a circuit-specific term commitment plan that is available for high capacity circuits; there is no minimum volume level component to the TPP. Rates stabilized under the TPP are exempt from rate increases, but are automatically reduced by any rate decreases. The discounts available under the TPP vary by rate element. Generally speaking, though, discounts associated with TPP Plan A, Plan B, and Plan C are approximately 25 percent, 32 percent, and approximately 40 percent, respectively. The actual

discounts associated with each particular TPP plan are specified in the TPP plan rates for the relevant service element, and can be found in Section 6 (SWA Dedicated Transport Services), Section 7 (SPA Transport services), or Section 23 (SPA or SWA Dedicated Transport Services in the full relief Phase II pricing flexibility MSAs) of BellSouth's Tariff FCC No. 1. Customers may add services under a TPP arrangement at the plan's stabilized monthly recurring rates.

**Channel Services Payment Plan**

10. The Channel Services Payment Plan or CSPP allows customers to obtain specific special access services at stabilized, discounted monthly rates for fixed service periods ranging from 12 months to 96 months in length, as selected by the customer. The CSPP is available as an alternative to the Area Commitment Plan for a set of services including SPA DS1, WATS Access Line Service, Digital Data Access Service ("DDAS"), and SMARTPath® Service. The CSPP is the exclusive optional payment plan applicable to BellSouth's line of special access customer network management and reconfiguration services (commonly known as "FlexServ® Service"). Prior to August 23, 1996, when the Transport Payment Plan was introduced, the CSPP was also available for new SMARTRing and LightGate Services.

11. Rates stabilized under the CSPP are exempt from rate increases, but are automatically reduced by any rate decreases. Customers may add services under a CSPP arrangement at the plan's stabilized monthly recurring rates. To increase capacity for the remaining few LightGate and SMARTRing Services still active under a CSPP though, a customer must convert the CSPP arrangement to a TPP arrangement, which the customer may do without charge.

12. The term rates associated with the CSPP are the same as those associated with the ACP for the set of services that are eligible for the ACP, while the general range of discounts associated with the CSPP for the suite of network management services (i.e., "FlexServ Service") is approximately 10 percent to 20 percent of the month-to-month rates. The CSPP has no minimum volume level.

**Other Special Access Discount Plans**

13. In addition to the three primary special access discount plans described above, BellSouth also currently offers additional discount options for its special access customers. These include: Fast Packet Services Payment Plan (SPP) and Fast Packet Savings Plan (FSP).

14. Fast Packet Services Payment Plan (SPP) is a payment plan that allows the customer to pay discounted monthly rates for fixed periods selected by the customer. Under this plan there are two (2) payment plans offered: Plan A,

which covers a period of no less than 12 months and up to 24 months, and Plan B, which covers a period of 25 months to 48 months.

15. Fast Packet Savings Plan (FSP) allows customers to receive credits applied to their bill in exchange for making a commitment to maintain a minimum level of total Fast Packet Services monthly recurring billing for a specified period of time.

16. In addition, in those geographic areas where BellSouth has been granted price flexibility, BellSouth has the opportunity to offer contract tariffs that include discounts on transport as well as developing customized performance guarantees. These contract tariffs are market driven and are tailored to meet a particular competitive situation. They typically involve volume, product, and/or revenue commitments jointly agreed to by the parties.

## Special Access Performance Credits And Guarantees

17. BellSouth offers special access transport with a Service Assurance Warranty ("SAW"). This commitment enables customers who may experience "service interruptions" in access transport services to receive a credit for a percentage of their monthly recurring charges. An access service is considered interrupted when: (i) it becomes unusable due to failure of a facility component used to furnish service (under Tariff F.C.C. No.1); or (ii) in the event that the protective controls applied by BellSouth result in the complete loss of use of the service by the customer.

18. The SAW applies to certain products and services and includes specified credits, as described below:

| A credit allowance applies on these products/services: | When an outage exceeds: | Credit as a percent Monthly Recurring Charge (MRC): |
|---|---|---|
| OC-3,12,48 SPA Dedicated Ring aka SMARTRing® Service (System Failure) | 1 Second | 100% of MRC after 1 second outage |
| OC-3,12,48 SPA Dedicated Ring aka SMARTRing Service (Channel Interface Failure)<br><br>SPA DS3 Point to Point Service (aka LightGate® Service)<br><br>Shared Ring DS1/3 Service (aka SMARTPath® Service)<br><br>SPA DS1(Zone 1) | 1 Minute | 100% of MRC after 1 minute outage |
| SPA DS1 (zones 2& 3) | 30 Minutes | 25% of MRC<br>30 – 150 minute outage<br><br>50% of MRC<br>151 – 210 minute outage<br><br>100% of MRC 211+ minute outage |
| SPA DS0<br><br>DS0 – DDAS, Analog, Program Audio, Telegraph, Broadcast Quality Video | 30 Minutes | 1/1440 of the MRC after 30 minutes outage for each 30 minutes of outage |

19. In addition, BellSouth offers a Service Installation Guarantee (SIG), which is a credit provided to a customer should BellSouth fail to meet mutually agreed upon access transport service order installation dates. The customer will receive a credit in an amount equal to the non-recurring charges associated with that service should the installation date be missed. The Service Installation Guarantee applies to the following products and services: OC-3, OC-12, OC-48 Dedicated Rings (SMARTRing Service) (ring level elements are not covered); special access DS3 Point-to-Point (LightGate Service); special access Shared Ring DS1/3 (SmartPath Service); special access DS1; special access DS0 Digital Data; and special access DS0 Voice Grade.

**CLEC Allegations**

20. In its Comments (pp 87-88), AT&T alleges that BellSouth's special access services provide "limited rate stability," suggesting that BellSouth has the ability to raise unilaterally its rates for special access services. AT&T contrasts special access pricing with rates for UNEs, which, according to AT&T, "provide competitive carriers with the rate stability that they need to make rational entry decisions." This allegation makes no sense given the structure of BellSouth's current special access discount plans.

21. As discussed above, BellSouth's primary discount plans that currently are available allow special access customers to enter into multi-year contracts for as long as 72 months in the case of ACP or up to 96 months for TPP and CSPP. Of course, the customer can select the length of contract it desires depending on its needs and can elect discounts under a contract as short as one-year under any of these three plans. Regardless of the contract duration, however, the price of services purchased under the ACP, TPP, or CSPP will not increase as long as the contract is in effect. Thus, BellSouth special access customers can be assured of enjoying "rate stability" for extended periods of time at the customer's election, notwithstanding AT&T's claims to the contrary.

22. AT&T's assertion (p. 88) that BellSouth's special access tariffs "contain exclusionary 'lock-up" provisions that require a carrier to maintain the vast

majority of its traffic" with BellSouth is inaccurate. Neither the ACP, TPP, nor CSPP requires a special access customer to maintain any specific level of traffic on BellSouth's network, let alone the "vast majority" of the CLEC's traffic.

23. To be sure, BellSouth previously offered its Transport Savings Plan ("TSP") and Premium Service Incentive Plan ("PSIP"), which provided special access discounts in exchange for a customer's commitment to purchase specified volumes of services for a specified period of time. AT&T is challenging both TSP and PSIP (File No. E8-04-MD-010) before the Commission. While BellSouth fully believes that the terms and conditions associated with these plans were just and reasonable, BellSouth, nonetheless, voluntarily grand-fathered these discount plans, and new special access customers cannot avail themselves of either plan.

24. AT&T alleges (p. 113) that BellSouth's special access tariffs contain "poison pills" allegedly "designed to block carriers that subscribe to these tariffed services from using alternatives to compete." Similarly, the Loop and Transport CLEC Coalition asserts (p. 61) that BellSouth is "using special access volume and terms [sic] plans as a means to lock facilities-based CLECs out of the market for wholesale services." However, neither AT&T nor the Loop and Transport CLEC Coalition bothers to identify any particular provision in ACP, TPP, or CSPP about which they are allegedly concerned.

This is not surprising, since customers opting to participate in the ACP, TPP, or CSPP are not required to forego any competitive alternatives as a prerequisite to obtaining the discounts available under those plans.

25. To the extent AT&T and the Loop and Transport CLEC Coalition are suggesting that a multi-year term contract is a "poison pill" or is somehow "anticompetitive," they are seriously mistaken. Term contracts are common in the telecommunications industry and have been a mainstay of competition for decades. In fact, AT&T admits (p. 129) that "[a]n important feature of the enterprise market is that large enterprise customers take service under multi-year term contracts." Thus, there is nothing insidious about multi-year term contracts.

26. The Loop and Transport CLEC Coalition's argument (p. 61) that the "most attractive special access pricing … is unavailable as a practical matter to CLECs that plan to construct their own facilities as conditions permit" is difficult to fathom. The "most attractive special access pricing" currently offered by BellSouth is through its ACP, TPP, and CSPP, which can readily be used by any carrier, including one that intends to construct its own facilities as some point in the future. These discount plans are flexible enough to allow a carrier to select the period of time to which it would like to enter into a contract with BellSouth, which could be tailored to bridge the time when the carrier enters the market and when it has deployed its own facilities. The

ACP, TPP, and CSPP also give carriers options as to which services to purchase under these discount plans such that self-provisioned facilities could readily be exempted.

27. AT&T's assertion (p. 112) that BellSouth has been unwilling to include performance standards in its special access tariffs is completely false. To the contrary, as discussed in detail above, BellSouth's tariffs contain specific standards for service interruptions and installation appointments associated with special access and provide for credits when those standards are not met. That AT&T has either intentionally or inadvertently overlooked these tariff provisions is difficult to explain.

28. Cbeyond claims (Batelaan Declaration ¶ 8) that if it "converted every UNE it currently purchases to special access," there is no "plan that Cbeyond would qualify for any of the tariffed special access volume discounts." Cbeyond is mistaken. BellSouth has analyzed the products that Cbeyond currently purchases as UNEs from BellSouth in the Atlanta LATA, determined the tariff rate that would apply if these products were purchased as special access, and calculated the reduced rates that would apply if the special access services were purchased under a discounted contract plan. Based on this analysis, BellSouth has identified approximately $1 million in savings that Cbeyond would enjoy if it purchased special access services under a discounted contract plan as opposed to paying tariffed month-to-month special access rates. While both the discounted and tariffed special access

rates are higher than UNE rates, there is no merit to Cbeyond's suggestion that its only option is to pay tariffed special access rates if UNE high-capacity loops and transport were not available.

29. AT&T claims (p. 98-101) that it "has effectively abandoned providing some types of local private line and Ethernet services," suggesting that special access pricing by BellSouth and the other ILECs are to blame. While I am not privy to the reasons for AT&T's business decisions, any decision by AT&T to cease offering particular services may have more to do with a change in business strategy than special access pricing. For example, AT&T announced in July 22, 2004 a new strategy that involves "concentrating its growth efforts going forward on business markets and emerging technologies, such as Voice over Internet Protocol (VoIP), that can serve businesses as well as consumers," which, according to AT&T, "plays to AT&T's strength as an innovator in communications and a leader in serving the complex networking and technology needs of businesses." A copy of AT&T's July 22, 2004 news release is attached as Exhibit NS-1. It may very well be that any decision by AT&T to "abandon" private line and Ethernet services is part of this new strategy.

30. Furthermore, putting aside the reasons for its business decisions, it is unclear specifically what services AT&T claims it is no longer offering. For example, I would note that AT&T continues to offer both private line and Ethernet

services. In fact, on October 14, 2004, AT&T announced that it had won an integrated networking contract from CenterPoint Energy, which includes frame relay and private line services. A copy of this press release is attached as Exhibit NS-2. Similarly, AT&T announced on September 29, 2004 that it had extended its business relationship with Zions Bancorporation by executing a new networking contract that includes "frame relay, private line, calling card, and voice services." A copy of this press release is attached as Exhibit NS-3. AT&T also recently announced that it was expanding its "global networking capabilities" by doubling its "wired Ethernet" locations, proclaiming itself as "a leader of IP networking solutions ...." A copy of this September 28, 2004 press release is attached as Exhibit NS-4. Based on the foregoing announcements, it does not appear that AT&T is telling regulators and the investing public the same story about its private line and Ethernet business.

31. Relying upon its own loop deployment experience, AT&T also argues (pp. 30-42) that competitive deployment of DS-1 circuits is "infeasible," suggesting that competitors will only deploy facilities to serve buildings in very limited circumstances. This argument is not consistent with BellSouth's experience or market data that BellSouth has obtained.

32. **[BEGIN PROPRIETARY DATA]**

33.

34.

35.

**[END PROPRIETARY DATA]**

Further affiant sayeth not.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Nancy D. Starcher

Nancy D. Starcher
Director – Transport Products
Interconnection Services

Subscribed and sworn to before me

This 18th day of October, 2004

Gay P. Ditz

Notary Public

Gay P. Ditz
Notary Public, DeKalb County
Georgia
My Commission Expires
February 09, 2007

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# Starcher Reply Affidavit

# Exhibit – NS – 1

**Exhibit NS-1**



## News Release

**Editor's note: Note to Financial Media: AT&T executives will discuss the company's performance in a two-way conference call for financial analysts at 8:15 a.m. ET today. Reporters are invited to listen to the call. U.S. callers should dial 888-428-4473 to access the call. Callers outside the U.S. should dial + 1-651-291-0561.**

**In addition, Internet rebroadcasts of the call will be available on the AT&T web site beginning later today. The web site address is www.att.com/ir. An audio rebroadcast of the conference call will also be available beginning at 12:30PM on Thursday, July 22 through 12:00AM on Tuesday, July 27. To access the audio rebroadcast, U.S. callers can dial 800-475-6701, access code 696623. Callers outside the U.S. should dial +1-320-365-3844, access code 696623.**

**FOR RELEASE THURSDAY, JULY 22, 2004**

# AT&T Announces Second-Quarter 2004 Earnings, Company to Stop Investing in Traditional Consumer Services; Concentrate Efforts on Business Markets

- **Second-quarter earnings per diluted share of $0.14**
- **Consolidated revenue of $7.6 billion**
- **Operating income of $348 million**
- **Second-quarter cash from operating activities of $1.1 billion**

BEDMINSTER, N.J. -- AT&T (NYSE: T) today reported net income of $108 million, or earnings per diluted share of $0.14, for the second quarter of 2004. This compares to net income of $536 million, or earnings per diluted share of $0.68, in the second quarter of 2003.

The company also announced that it is shifting its focus away from traditional consumer services such as wireline residential telephone services, and concentrating its growth efforts going forward on business markets and emerging technologies, such as Voice over Internet Protocol (VoIP), that can serve businesses as well as consumers. The shift plays to AT&T's strength as an innovator in communications and a leader in serving the complex networking and technology needs of businesses.

"AT&T is the leading provider of communications services to business customers, offering a full range of leading-edge networking and communications solutions on a global basis," said David W. Dorman, AT&T's Chairman and CEO, who noted that nearly 75% of AT&T's revenue is now generated by AT&T Business. "We intend to widen the gap between AT&T and our competitors in the business market, while also improving our industry-leading cost structure and financial strength."

As a result of recent changes in regulatory policy governing local telephone service, AT&T will no longer be competing for residential local and standalone long distance (LD) customers. The company stressed that existing residential customers will continue to receive the quality service they expect from AT&T; however, the company will no longer be investing to acquire new customers in this segment.

**Exhibit NS-1**

"This decision means that AT&T will focus on lines of business where we are a clear leader, where we control our own destiny and where we have distinct competitive advantages," said Dorman. "Despite the near-term challenges associated with a difficult industry environment, we are confident that AT&T's cost structure, customer base, strong balance sheet and cash flow give us the flexibility to continue investing for success in the long run."

AT&T reported second-quarter 2004 consolidated revenue of $7.6 billion, which included $5.6 billion from AT&T Business and $2.0 billion from AT&T Consumer. Consolidated revenue declined 13.2 percent versus the second quarter of 2003, primarily due to continued declines in LD voice revenue.

AT&T's second-quarter 2004 operating income totaled $348 million, resulting in a consolidated operating margin of 4.6 percent. Operating income included $54 million of net restructuring and other charges taken during the quarter primarily related to employee separations. This quarter the company also reported that it generated $1.1 billion in cash from operations while spending $0.5 billion on capital expenditures.

**AT&T UNIT HIGHLIGHTS**

**AT&T Business**

- Revenue was $5.6 billion, a decline of 12.7 percent from the prior-year second quarter. Pricing pressure and mix shift from retail to wholesale negatively affected the unit's revenue performance.
- Long distance voice revenue decreased 17.6 percent from the prior-year second quarter, driven by continued pricing pressure as well as a continued mix shift in volume from retail to wholesale. Volumes were flat on a quarter-over-quarter basis, with growth in wholesale volumes offset by a decline in retail volumes.
- Local voice revenue grew 5.0 percent from the prior-year second quarter. Local access lines totaled more than 4.6 million at the end of the current period, representing an increase of over 85,000 lines from the end of the first quarter of 2004.
- Data revenue declined 10.4 percent from the prior-year second quarter. Revenue was negatively affected by pricing pressure, weak demand and technology migration.
- IP&E-services revenue grew 2.3 percent over the prior-year second quarter. The quarter-over-quarter growth was primarily driven by strength in advanced services, including Enhanced Virtual Private Network and IP-enabled frame.
- Outsourcing, professional services and other revenue declined 18.9 percent from the prior-year second quarter, due to customers reducing scope and terminating outsourcing contracts.
- Operating income totaled $152 million in the period, yielding an operating margin of 2.7 percent. Second-quarter 2004 operating income included net restructuring and other charges of $52 million related to employee separations. The operating margin declined from the prior-year second quarter, reflecting the ongoing mix shift from retail LD products toward advanced and wholesale services.
- The sequential increase in second-quarter operating margin was primarily driven by favorable access settlements. In the second half of 2004, we expect the operating margin to be eroded by continuing pricing pressure in the enterprise segment, RBOC share gains in the small and medium business markets and the customary impact of seasonality.
- Capital expenditures were $463 million as AT&T Business continued to invest in its network and systems to drive continued cost efficiencies and expand its customer-focused networking capabilities.
- AT&T Business showed an improvement in market share trends at the high end of the market, consistent with its strategy of keeping and building its enterprise customer

**Exhibit NS-1**

base.

- During the second quarter, a number of sizable customer wins and contract extensions were signed with companies including Lockheed Martin, Deutsche Bank and Providea, as well as The United States Army and The Internal Revenue Service, among many others.

**AT&T Consumer**

- Revenue was $2.0 billion, a decline of 14.6 percent versus the prior-year second quarter, driven by lower standalone LD voice revenue as a result of the continued impact of competition, wireless and Internet substitution and customer migration to lower-priced products and calling plans, partially offset by targeted price increases.
- Operating income totaled $240 million, yielding an operating margin of 11.9 percent. The margin decline from the prior-year second quarter was largely due to ongoing substitution and competition. In addition, increased spending for marketing and new initiatives such as VoIP contributed to the margin decline. Such declines were partially offset by the effects of pricing actions.
- According to industry estimates, more than 40% of American households have now migrated to some combination of bundled communications services. Recent regulatory decisions make it financially infeasible for AT&T to offer a competitive bundle of services to consumers. AT&T has determined that it cannot effectively compete against bundled competition by selling only standalone LD.
- As of June 30, 2004 AT&T Consumer offered its residential VoIP AT&T CallVantageSM Service in 72 major markets throughout the U.S. Recently, the company expanded the availability of its offer to 100 major markets in 32 states and Washington D.C.

**OTHER CONSOLIDATED FINANCIAL HIGHLIGHTS**

- Free cash flow was $0.6 billion for the quarter. Free cash flow is defined as cash flow provided by operating activities of $1.1 billion less cash used for capital expenditures and other additions of $0.5 billion.
- AT&T ended the quarter with net debt of $7.9 billion, a $0.5 billion decrease from the end of the first quarter of 2004. Net debt is defined as total debt of $11.2 billion less cash of $2.5 billion, restricted cash of $0.5 billion and net foreign debt fluctuations of $0.3 billion.

**DEFINITIONS and NOTES**

**AT&T Business**

**LD Voice** - includes all of AT&T's domestic and international LD revenue, including Intralata toll when purchased as part of an LD calling plan.

**Local Voice** - includes all local calling and feature revenue, Intralata toll when purchased as part of a local calling plan, as well as Inter-carrier local revenue.

**Data Services**- includes bandwidth services (dedicated private line services through high-capacity optical transport), frame relay and asynchronous transfer mode (ATM) revenue for LD and local, as well as revenue for managed data services.

**Internet Protocol & Enhanced Services (IP&E-services)** - includes all services that ride on the IP common backbone or that use IP technology, including managed IP services, as well as application services (e.g., hosting, security).

**Exhibit NS-1**

**Outsourcing, Professional Services & Other** - includes complex bundled solutions primarily in the wide area/local area network space, AT&T's professional services revenue associated with the company's federal government customers, as well as all other Business revenue (and eliminations) not previously defined.

**Data, IP&E-Services - Percent Managed** - managed services refers to AT&T's management of a client's network or network and applications including applications that extend to the customer premise equipment.

**Data, IP&E-Services - Percent International** - a data service that either originates or terminates outside of the United States, or an IP&E-service installed or wholly delivered outside the United States.

**AT&T Consumer**

**Bundled Services** - includes any customer with a local relationship as a starting point, and all other AT&T subscription-based voice products provided to that customer.

**Standalone LD, Transactional & Other Services** - includes any customer with solely a long distance relationship, non-voice products, or a non subscription-based relationship.

**Local Customers** - residential customers that subscribe to AT&T local service.

**Other Definitions and Notes**

**Restricted cash** - $0.5 billion of cash that collateralizes a portion of private debt and is included in "other current assets" on the balance sheet.

**Foreign currency fluctuations** - represents mark-to-market adjustments, net of cash collateral collected, that increased the debt balance by approximately $0.3 billion at June 30, 2004, on non-U.S. denominated debt of about $1.8 billion. AT&T has entered into foreign exchange hedges that substantially offset the fluctuations in the debt balance. The offsetting mark-to-market adjustments of the hedges are included in "other current assets" and "other assets" on the balance sheet.

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- 2Q04 Income Statement (PDF)
- 2Q04 Quarterly Income Statements (PDF)
- 2Q04 Historical Segment Data (PDF)
- 2Q04 Balance Sheet (PDF)
- 2Q04 Cash Flow (PDF)
- 2Q04 Reconciliation of Non-GAAP Measures (PDF)

The foregoing contains "forward-looking statements" which are based on management's beliefs as well as on a number of assumptions concerning future events made by and information currently available to management. Readers are cautioned not to put undue reliance on such forward-looking statements, which are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside AT&T's control, that could cause actual results to differ materially from such statements. These risk factors include the impact of increasing competition, continued capacity oversupply, regulatory uncertainty and the effects of technological substitution, among other risks. For a more detailed description of the factors that could cause such a difference, please see AT&T's10-K, 10-Q, 8-K and other filings with the Securities and Exchange Commission. AT&T disclaims any intention or obligation to update or revise any forward-looking

Exhibit NS-1

statements, whether as a result of new information, future events or otherwise. This information is presented solely to provide additional information to further understand the results of AT&T.

## About AT&T

For more than 125 years, AT&T (NYSE "T") has been known for unparalleled quality and reliability in communications. Backed by the research and development capabilities of AT&T Labs, the company is a global leader in local, long distance, Internet and transaction-based voice and data services.

## For more information, reporters may contact:

**For media inquiries please contact:**

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**For investor inquiries please contact:**

Investor Relations
908-532-1680

WC Docket No. 04-313
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# Starcher Reply Affidavit

# Exhibit – NS – 2

**Exhibit NS-2**



## News Release

**FOR RELEASE THURSDAY, OCTOBER 14, 2004**

# CenterPoint Extends AT&T Relationship With $7.8 Million Contract

HOUSTON - AT&T has won a $7.8 million integrated networking contract from CenterPoint Energy, one of the largest combined electricity and natural gas delivery companies in the nation. The three-year agreement renews a longstanding relationship between the two companies.

CenterPoint Energy's diverse business units provide electric transmission and distribution, natural gas distribution and sales, interstate pipelines and gathering operations and more than 14,000 megawatts of power generation in Texas. CenterPoint Energy will rely on AT&T Toll-Free Service to help the company elevate service for its 5 million customers. As part of a trend-setting policy in Arkansas designed to make customer service a priority, CenterPoint Energy has pledged to answer at least 80 percent of incoming calls within 30 seconds. CenterPoint Energy's "80/30 rule" applies across all its business lines.

"Our customers demand a high level of reliability and service from us and those demands are amplified when they reach out to us on the phone," said Mike Cline, CenterPoint director of information technology. "The communications network AT&T provides plays an important role in helping us to conduct business with integrity, accountability, initiative and respect."

In addition to toll-free services, the contract covers calling card, frame relay, private line and Internet access services. CenterPoint Energy enjoys a single point of contact for all voice and data services, streamlined billing and discounts across the full array of services through AT&T OneNet® Service. Additionally, through the secure AT&T BusinessDirect® portal, CenterPoint Energy gains around-the-clock online access to tools that provide real-time reports on network performance and direct access to AT&T's ordering, billing and payment, status, inventory and trouble management systems.

**About CenterPoint Energy**

CenterPoint Energy, Inc., (NYSE:CNP), headquartered in Houston, Texas, is a domestic energy delivery company that includes electric transmission & distribution, natural gas distribution and sales, interstate pipeline and gathering operations, and more than 14,000 megawatts of power generation in Texas, of which approximately 2,500 megawatts are currently in mothball status. The company serves nearly five million metered customers primarily in Arkansas, Louisiana, Minnesota, Mississippi, Oklahoma, and Texas. Assets total over $21 billion. With more than 11,000 employees, CenterPoint Energy and its predecessor companies have been in business for more than 130 years. For more information, visit the Web site at www.CenterPointEnergy.com.

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## About AT&T

**Exhibit NS-2**

For more than 125 years, AT&T (NYSE "T") has been known for unparalleled quality and reliability in communications. Backed by the research and development capabilities of AT&T Labs, the company is a global leader in local, long distance, Internet and transaction-based voice and data services.

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## AT&T 'Safe Harbor'

The foregoing contains "forward-looking statements" which are based on management's beliefs as well as on a number of assumptions concerning future events made by and information currently available to management. Readers are cautioned not to put undue reliance on such forward-looking statements, which are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside AT&T's control, that could cause actual results to differ materially from such statements. These risk factors include the impact of increasing competition, continued capacity oversupply, regulatory uncertainty and the effects of technological substitution, among other risks. For a more detailed description of the factors that could cause such a difference, please see AT&T's 10-K, 10-Q, 8-K and other filings with the Securities and Exchange Commission. AT&T disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. This information is presented solely to provide additional information to further understand the results of AT&T.

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## For more information, reporters may contact:

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AT&T
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dan@keeneypr.com

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WC Docket No. 04-313
CC Docket No. 01-338

# Starcher Reply Affidavit

# Exhibit – NS – 3

**Exhibit NS-3**



**News Release**

**FOR RELEASE WEDNESDAY, SEPTEMBER 29, 2004**

# Zions Bancorporation Renews AT&T Relationship With $7.5 Million Networking Contract

**AT&T's networking solution saves money and expands capabilities**

SALT LAKE CITY -- Zions Bancorporation ("Zions") has extended its long-term business relationship with AT&T by awarding a $7.5 million contract renewal for an integrated networking solution to support consolidating bank-processing operations at selected regional banks. Zions operates approximately 400 full-service banking offices in eight western states.

Using a portfolio of AT&T voice and data services, Zions gains a number of corporate efficiencies, including more centralized network operations, the benefit of receiving uniform services across all banks from a single communications provider and call-center consolidation benefits. When the bank's "Project Unify" project is complete, Zions expects to achieve meaningful expense reduction through improved productivity.

"For more than 20 years, we have had a positive business relationship with AT&T, and this renewal agreement deepens our relationship," said Mike DeVico, executive vice president and chief information officer of Zions Bancorporation. "The quality and reliability of AT&T's services will help us consolidate banking services, reduce our costs and streamline customer service operations."

The AT&T networking solution includes frame relay, private line, calling card and voice services.

AT&T will integrate Zions' regional bank operations in Arizona, California, Colorado, Nevada and Utah with AT&T OneNet® Service, which bundles a custom solution of voice, data and Internet services into one contract. In addition, through the award-winning secure AT&T BusinessDirectÒ portal, Zions gains online access to tools that provide real-time monitoring and management of network performance and direct access to AT&T's ordering, status, account management, billing and payment systems.

**About Zions Bancorporation:**

Zions Bancorporation (NASDAQ: ZION) is one of the nation's premier financial services companies, consisting of a collection of great banks in select high growth markets. Under local management teams and community identities, Zions operates approximately 400 full-service banking offices in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Utah and Washington. In addition, Zions is a national leader in SBA lending, public finance advisory services, agricultural finance and electronic bond trading. The company is included in the S&P 500 Index. Investor information and links to subsidiary banks can be accessed at www.zionsbancorporation.com.

**Exhibit NS-3**

## About AT&T

For more than 125 years, AT&T (NYSE "T") has been known for unparalleled quality and reliability in communications. Backed by the research and development capabilities of AT&T Labs, the company is a global leader in local, long distance, Internet and transaction-based voice and data services.

## AT&T 'Safe Harbor'

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## For more information, reporters may contact:

Timi Aguilar
AT&T Public Relations
303-298-6967 office
303-956-8834 wireless

WC Docket No. 04-313
CC Docket No. 01-338

# Starcher Reply Affidavit

# Exhibit – NS – 4

Exhibit NS-4



## News Release

**FOR RELEASE TUESDAY, SEPTEMBER 28, 2004**

# AT&T Expands Global Networking Capabilities, Reinforcing Leadership In IP Services

BEDMINSTER, N.J.-- In the latest example of its leadership in business networks and of its own transformation, AT&T today announced a new series of enhancements to its industry-leading global Internet protocol (IP) network to address the reach, performance and security requirements of the Fortune 1000 customers it serves worldwide.

The enhancements--part of an ongoing series of technology deployments--reflect AT&T's commitment to business customers, such as international spirits firm Allied Domecq PLC, Elizabeth Arden Inc., the industry-owned cooperative SWIFT (Society for Worldwide Interbank Financial Telecommunication) and Swiss International Air Lines Ltd., that generated almost 75 percent of the company's $34.5 billion annual revenue in 2003.

Specifically, the company is announcing:

- Expansion of its global IP network into rapidly growing markets such as China, Thailand, India and Costa Rica, as well as integration with Alestra's network in Mexico;
- Growing volume of live customer traffic over recently deployed long-haul Optical Carrier (OC)-768-ready fiber from San Francisco to Seattle, transmitting data up to 40 gigabits per second on a single fiber strand;
- Unsurpassed global broadband remote access options to support growing remote and mobile workforce--increasing global WiFi access from 2,900 to 4,000 hot spots, wired Ethernet from 600 U.S. locations to 1,200 globally, and digital subscriber line (DSL) from 6,300 U.S. central offices to 8,000;
- Extension of its unique network disaster recovery capabilities into Europe; and
- Opening of four new Internet Data Centers in Frankfurt, Paris, Tokyo and London, expanding its footprint to 25 centers on four continents, to support its growing hosting business.

"Our customers need to operate as 24x7, 'always on,' virtual enterprises, and we are extending our market leadership position with continued investment in capabilities that meet their complex networking and technology requirements," said AT&T President Bill Hannigan. "Today's announcement reinforces our commitment and investment to set the standard for network performance and innovation."

With the enhancements announced today, businesses and government agencies worldwide will be able to place their information technology resources on AT&T's global IP network with the confidence that their suppliers, employees, customers and partners can access critical data and applications reliably and securely from anywhere at any time--enabling the networked enterprise. In fact, AT&T recently announced best-in-class performance guarantees across its suite of global IP services.

**Exhibit NS-4**

The continued expansion of AT&T's networking infrastructure and capabilities is further evidence of the speed with which the company has transformed its business from a traditional telecommunications bandwidth provider to a leading integrator of enterprise and application networking solutions that leverage the flexibility and ubiquity of IP.

"We're taking the experience and expertise we've gained through our own ongoing transformation to help enterprise customers with perhaps the most complex networking challenge they face--the eventual migration to all IP," Hannigan said. "As a leading provider of IP networking solutions, we know IP better than anyone else. So as companies make that transition, no one is better positioned as the business customer's migration partner of choice than AT&T."

Extending the reach of AT&T's global IP network into additional countries in Asia-Pacific and Latin America illustrate growing demand for increased network presence to support continued market expansion into those regions by the company's largest multinational customers. And as AT&T continues to expand its network, it also is extending its unique mobile network disaster recovery capability to Europe, where it has the largest concentration of network assets outside North America.

Over the last 10 years, AT&T has invested about $300 million in a one-of-a-kind network disaster recovery capability, which includes a dedicated team of disaster recovery personnel and a fleet of more than 100 specially designed tractor-trailers that house the same equipment and components in an AT&T network node. Although these trailers traditionally have been deployed worldwide out of U.S. facilities, AT&T now has this capability based out of Europe as well for even faster response in the event of emergencies.

With today's announcement, AT&T also reaffirms its distinction as "The World's Networking Company"(sm) with the recent deployment of OC-768 fiber between San Francisco and Seattle. This latest improvement represents a significant step toward AT&T's all-photonic network to support next-generation bandwidth on-demand services, such as streaming audio and video, content distribution, online gaming, as well as utility and grid computing.

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## About AT&T

For more than 125 years, AT&T (NYSE "T") has been known for unparalleled quality and reliability in communications. Backed by the research and development capabilities of AT&T Labs, the company is a global leader in local, long distance, Internet and transaction-based voice and data services.

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## AT&T 'Safe Harbor'

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# BELLSOUTH REPLY COMMENTS

**WC Docket No. 04-313**
**CC Docket No. 01-338**

**October 19, 2004**

# Attachment 8

**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, DC 20544**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Unbundled Access to Network Elements | ) | WC Docket No. 04-313 |
| | ) | |
| Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers | )<br>)<br>) | CC Docket No. 01-338 |

**REPLY AFFIDAVIT OF PAMELA A. TIPTON**

I, Pamela A. Tipton, being of lawful age, and duly sworn upon my oath, do hereby depose and state:

## I. EXPERIENCE

1. I am the same Pamela A. Tipton who previously filed an affidavit on October 4, 2004 supporting BellSouth's Initial Comments in this proceeding. My Affidavit addressed certain facts about competitive switch deployment in BellSouth's nine-state serving area.

## II. SUMMARY

2. I am submitting this Reply Affidavit in support of BellSouth's Reply Comments. The purpose of my Reply Affidavit is to: (1) address commenters' claims regarding the Commission's consideration of intermodal competitive alternatives; (2) address certain market considerations proposed by commenters; (3) address commenters' claims and describe alternatives regarding transitional elements for facilities-based entry; and (4) describe BellSouth's alternative to unbundled switching.

## III. ISSUES RAISED BY COMMENTERS

**INTERMODAL COMPETITION MUST BE CONSIDERED**

3. Any analysis of impairment must consider the full complement of alternatives that provide consumers a choice. The various forms of intermodal competition provide vital and growing alternatives for consumers in the marketplace. Yet, many commenters argue that the Commission must either disregard intermodal competition altogether or give intermodal competition substantially less weight because it is not a ready substitute for UNE-P or POTS. Neither of these approaches is appropriate because they focus on the welfare of an individual CLEC or type of CLEC (specifically UNE-P CLECs) and fail to consider the overall benefit to consumers in the marketplace. Indeed, the level of intermodal competition has increased significantly since the Commission's analysis for the *Triennial Review Order.*

4. A number of intermodal providers, including "bring-your-own-access" VoIP providers, have actively entered the marketplace in the last 6-10 months and are targeting not just residential subscribers, but also small and medium businesses. Skype, AT&T, Z-Tel and others have launched full-fledged marketing attacks on traditional circuit switched telephony claiming they have revolutionized the telephone. AT&T is offering its CallVantage to residential customers while Skpe, Z-Tel, AT&T and FDN each recently announced VoIP offerings targeted to the small and medium business segments.

5. According to independent researchers at TeleNomic Research, LLC and at In-Stat MDR, between 45 to 48.5% of small office/home office (SOHO) and small businesses use cable modem as their telecom solution of choice ("A Survey or Small Businesses' Telecommunications Use and Spending" TeleNomic Research, LLC, March 2004; "Cash Cows Say "Bye-Bye": The Future of Private Line Services in US Businesses", In-Stat MDR, December 2003). The number of small office/home office using cable modem was expected to grow to more than 61% within the coming year. A TNS Telecoms ReQuest[R] Consumer Survey indicates that in the residential consumer market, 39% of households in BellSouth's footprint currently have broadband access, with 23% subscribing to cable modem service (TNS Telecoms, October 2004). Based on this research, nearly half of the SOHO and small businesses and nearly one-third of residential consumers are ready for VoIP now and are a fertile ground for VoIP players to overlay their voice offerings on cable modem service. Intermodal competition is significant and must be given significant weight.

**MARKET CONSIDERATIONS**

6. Several commenters suggest that the Commission must focus on a market definition limited to the wire center in assessing impairment for unbundled switching, which I will discuss further below. In conjunction with their wire center market definition, CLECs propose various line count thresholds that allegedly must be met prior to a finding of no impairment. Most of these proposals, which include thresholds up to as many as 8,000 CLEC lines in a given wire center, are arbitrary and are not supported by correlating data or analysis. Those that do provide data (e.g., ALTS, NTS, Michigan coalition) contain no analysis particular

to BellSouth's serving area. Further, such proposals do not consider where competition is possible -- instead their focus is solely on existing competition. For this reason alone, these proposals have no merit.

7. A market defined as the wire center with regard to switching ignores the realities of how facilities-based CLECs are actually self-providing switching in the market place. As I previously explained, there are more than 450 competitive switches in BellSouth's nine-state region. When considering switching points of interface (POIs) in addition to switches, there are more than 900 total switches or switching POIs within BellSouth's region. Also, these switches/POIs have a significantly broader reach than traditional ILEC circuit switches and are not confined to ILEC wire center serving arrangement. Considering both switches and POIs is consistent with a typical CLEC's network architecture; for example, PaeTec described in its Comments its single switch/multiple POI deployment. (PaeTec Comments at 3). CLEC switches/POIs are generally used to serve entire MSAs, LATAs, entire states, and even multiple geographic areas in multiple states. Thus, CLEC switches/switching POIs have a significantly broader reach than traditional ILEC circuit switches. To restrict any switching analysis to an individual wire center ignores the reality of the actual and potential deployment of competitive switching today.

8. When considering markets, it is important to bear in mind that CLECs have already deployed switching or a switching presence in many of the same geographic markets in which they purchase UNE-Ps from the ILEC. Attached as proprietary Reply Exhibit PAT-1 is a table that shows, on an MSA basis, those

CLECs that continue to provide service using UNE-P even though they have established a switch or a switch POI in that MSA. A switch node/POI CLLI code will appear for each MSA in which the Local Exchange Routing Guide (LERG) indicates there are NPA/NXX codes from rate centers in that MSA assigned to the node/POI. Where more than one node/POI in a given MSA is assigned NPA/NXXs for that MSA, I have included only one such POI to conservatively represent a CLEC's presence in that market. While I draw no direct correlation between the specific UNE-P units in service to the actual Node/POI identified, each node/POI listed has been identified by the CLEC in the LERG with an "End Office" designation – and for some CLECs there are multiple POIs established in some MSAs. Using scaled down collocation and/or voice grade EELs, these existing UNE-P lines can readily be converted to UNE-L using the CLEC's existing switching capabilities.

9. In consideration of UNE-P lines in service, as well as the revenue opportunity CLECs receive from their targeted customer segments, the Commission should not be fooled by the CLECs complaints of their inability to obtain a profitable base of customers under a market definition broader than wire center. Certainly there may be some variations between wire centers in a broader market area such as MSA. However, research shows that, regardless of wire center make-up, CLECs are capturing "the cream of the crop". A Yankee Group study published in June 2004 states, "CLECs continue to attract higher ARPU [Average Revenue Per Unit] customers than ILECs." ("CLECs Continue to Beat ILECs, but by a Slimmer Margin", The Yankee Group, June 2004, page 10). On local voice alone in the "very small business" category (which are predominantly, if not in

total, mass market customers), the difference is significant. CLECs are capturing an average monthly spend of $292 per month versus the ILECs $198. (Report Exhibit 9).

10. Further, The Yankee Group reports that CLECs capture more wallet share, with CLECs' very small business communications applications penetration providing an 8-10% benefit above the ILECs across all nine categories sampled (Exhibit 12). The report goes on to say that 79% of very small business CLEC customers buy at least 2 services from CLECs as compared to approximately 55% of the ILECs' very small business customers (Exhibit 13). What this data shows is that contrary to CLECs' unsupported claims, CLECs are capturing high revenue producing customers – providing efficient CLECs ample opportunity to realize significant margins from customers across broad geographic markets.

11. Finally, CLEC marketing efforts also are not limited to individual wire centers. Telscape acknowledges that "advertising typically cannot be limited to the boundaries of the area served by a telephone central office." (Telscape Comments at 8.) With competitive switches extending well beyond an individual wire center, and CLEC marketing efforts unrestricted by wire center boundaries, a switching analysis focused on wire centers is unreasonable.

**<u>TRANSITION TO FACILITIES-BASED ALTERNATIVES</u>**

12. Other CLECs erroneously contend that unbundled local switching, and more precisely UNE-P, is required as a transitional element for facilities-based competition to thrive. However, both resale and the availability of DS0 Loops

and EELS provide sufficient alternatives to meet carriers' needs to develop a certain customer base in a particular wire center before building collocation or placing a switch at an end office. Either alternative provides CLECs with an opportunity to build a broad range of customers in a particular market prior to converting those customers to UNE Loops connected to a CLEC switch. The data presented above demonstrates CLECs' success in capturing higher telecom spend customers, and thus an opportunity to enjoy margins regardless of the serving method used.

13. In addition to resale and DS0 EELs, BellSouth also offers a market-priced alternative to unbundled local switching, referred to as its DS0 Wholesale Local Voice Platform Service. This commercial service offering allows CLECs to retain the benefit of access charges and the other regulatory fees (such as subscriber line charges). Contrary to MCI and others' claims, BellSouth has continued fruitful negotiations with CLECs who earnestly seek viable alternatives to UNE-P. To date, BellSouth has reached commercial agreements for this service with twenty-two (22) of its wholesale customers; one such agreement was finalized within the last two weeks.

14. Notwithstanding the availability of Resale, EELs and commercial wholesale switching as transitional elements, true facilities based CLECs, such as FDN in BellSouth's region prove that a UNE-L based business model, absent transitional elements, is profitable. Before the Florida Public Service Commission, FDN testified "FDN believes it operates as the federal Telecommunications Act of 1996 (the "Act") contemplated competition would evolve, i.e., where competing

carriers invest in their own facilities and infrastructure and have guaranteed access, for a fee, to certain ILEC property/elements only where such property/elements could not be practically replicated. Indeed, switching has been and still is readily available to any one willing to purchase a Class 5 type device. Advances in soft switch technology also make non-Class 5 switching realistic and have led to lower overall switching costs." (*See* BellSouth Appendix to Initial Comments at 23). Others, such as Z-Tel, a previously strong UNE-P proponent, now recognize this Commission's inevitable determination that CLECs are unimpaired without unbundled switching and the detrimental impact that UNE-P has had on the market. In its SEC filing, Z-Tel acknowledges, "the capital markets are beyond exhausted with this whole UNEP mess" and have committed to their shareholders that they are shifting to the UNE-L strategy that can deliver "service bundles that the Bell companies cannot and that the use of UNEP effectively precludes (*See* Z-Tel United States Securities and Exchange Commission Form 8-K, July 27, 2004, pages 5-6).

## CONCLUSION

15. Competitive switch deployment is prevalent. In BellSouth's nine-state region, more than 900 switches and switching POIs are providing local service to consumers. Competitive voice providers are actively serving the mass market using their own circuit and packet switches. In the event CLECs do not wish to utilize their own switching, or purchase switching at wholesale from another competitive switch provider, they can obtain access to switching on a resale basis or by availing themselves of BellSouth's commercial offering. Also,

intermodal competition is flourishing. This Commission should refrain from requiring further access to local circuit switching on an unbundled basis.

16. This concludes my Affidavit.

553995/2

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Pam Tipton
Director - Interconnection Services

Subscribed and sworn to before me

This 18th day of October, 2004

Notary Public

Gay P. Ditz
Notary Public, DeKalb County
Georgia
My Commission Expires
February 09, 2007

# Tipton Reply Affidavit

# Exhibit PAT – 1

REDACTED

| MSA | ACTUAL SW ID | SWITCH Node/POI | UNE-P Units By CLEC |
|---|---|---|---|
| Abbeville, LA Micropolitan Statistical Area | | | |
| Alexandria, LA Metropolitan Statistical Area | | | |
| Americus, GA Micropolitan Statistical Area | | | |
| Anderson, SC Metropolitan Statistical Area | | | |
| Asheville, NC Metropolitan Statistical Area | | | |
| Athens, TN Micropolitan Statistical Area | | | |
| Baton Rouge, LA Metropolitan Statistical Area | | | |
| Bogalusa, LA Micropolitan Statistical Area | | | |
| Boone, NC Micropolitan Statistical Area | | | |
| Bowling Green, KY Metropolitan Statistical Area | | | |
| Brownsville, TN Micropolitan Statistical Area | | | |
| Brunswick, GA Metropolitan Statistical Area | | | |
| Burlington, NC Metropolitan Statistical Area | | | |
| Calhoun, GA Micropolitan Statistical Area | | | |
| Central City, KY Micropolitan Statistical Area | | | |
| Cleveland, TN Metropolitan Statistical Area | | | |
| Columbia, SC Metropolitan Statistical Area | | | |
| Columbia, TN Micropolitan Statistical Area | | | |
| Columbus, MS Micropolitan Statistical Area | | | |
| Corbin, KYMicropolitan Statistical Area | | | |
| Cordele, GA Micropolitan Statistical Area | | | |
| Corinth, MS Micropolitan Statistical Area | | | |

| MSA | ACTUAL SW ID | SWITCH Node/POI | UNE-P Units By CLEC |
|---|---|---|---|
| Crowley, LA Micropolitan Statistical Area | | | |
| Cullman, AL Micropolitan Statistical Area | | | |
| Danville, KY Micropolitan Statistical Area | | | |
| De Ridder, LAMicropolitan Statistical Area | | | |
| Decatur, AL Metropolitan Statistical Area | | | |
| Durham, NC Metropolitan Statistical Area | | | |
| Dyersburg, TN Micropolitan Statistical Area | | | |
| Elizabethtown, KY Metropolitan Statistical Area | | | |
| Florence, AL Metropolitan Statistical Area | | | |
| Florence, SC Metropolitan Statistical Area | | | |
| Forest City, NC Micropolitan Statistical Area | | | |
| Fort Polk South, LA Micropolitan Statistical Area | | | |
| Frankfort, KY Micropolitan Statistical Area | | | |
| Gadsden, AL Metropolitan Statistical Area | | | |
| Gaffney, SC Micropolitan Statistical Area | | | |
| Gainesville, FL Metropolitan Statistical Area | | | |
| Gainesville, GA Metropolitan Statistical Area | | | |
| Goldsboro, NC Metropolitan Statistical Area | | | |
| Greenville, MS Micropolitan Statistical Area | | | |
| Greenville, SC Metropolitan Statistical Area | | | |
| Greenwood, MS Micropolitan Statistical Area | | | |
| Hammond, LA Micropolitan Statistical Area | | | |
| Harriman, TN Micropolitan Statistical Area | | | |
| Hattiesburg, MS Metropolitan Statistical Area | | | |

| MSA | ACTUAL SW ID | SWITCH Node/POI | UNE-P Units By CLEC |
|---|---|---|---|
| Huntsville, AL Metropolitan Statistical Area | | | |
| Jackson, MS Metropolitan Statistical Area | | | |
| Jackson, TN Metropolitan Statistical Area | | | |
| Jacksonville, FL Metropolitan Statistical Area | | | |
| Knoxville, TN Metropolitan Statistical Area | | | |
| La Follette, TN Micropolitan Statistical Area | | | |
| Lafayette, LA Metropolitan Statistical Area | | | |
| LaGrange, GA Micropolitan Statistical Area | | | |
| Lake Charles, LA Metropolitan Statistical Area | | | |
| Laurel, MS Micropolitan Statistical Area | | | |
| Laurinburg, NC Micropolitan Statistical Area | | | |
| Lincolnton, NC Micropolitan Statistical Area | | | |
| Lumberton, NC Micropolitan Statistical Area | | | |
| Macon, GA Metropolitan Statistical Area | | | |
| Madisonville, KY Micropolitan Statistical Area | | | |
| Mayfield, KY Micropolitan Statistical Area | | | |
| Meridian, MS Micropolitan Statistical Area | | | |
| Middlesborough, KY Micropolitan Statistical Area | | | |
| Mobile, AL Metropolitan Statistical Area | | | |
| Monroe, LA Metropolitan Statistical Area | | | |

UNE-P Units in MSAs where the UNE-P CLEC Also has a Switching POI



| MSA | ACTUAL SW ID | SWITCH Node/POI | UNE-P Units By CLEC |
|---|---|---|---|
| Montgomery, AL Metropolitan Statistical Area | | | |
| Morgan City, LA Micropolitan Statistical Area | | | |
| Morristown, TN Metropolitan Statistical Area | | | |
| Mount Sterling, KY Micropolitan Statistical Area | | | |
| Murray, KY Micropolitan Statistical Area | | | |
| New Iberia, LA Micropolitan Statistical Area | | | |
| Newport, TN Micropolitan Statistical Area | | | |
| Ocala, FL Metropolitan Statistical Area | | | |
| Orangeburg, SC Micropolitan Statistical Area | | | |
| Orlando, FL Metropolitan Statistical Area | | | |
| Owensboro, KY Metropolitan Statistical Area | | | |
| Oxford, MS Micropolitan Statistical Area | | | |
| Palatka, FL Micropolitan Statistical Area | | | |
| Paris, TN Micropolitan Statistical Area | | | |
| Pascagoula, MS Metropolitan Statistical Area | | | |
| Richmond, KY Micropolitan Statistical Area | | | |
| Rockingham, NC Micropolitan Statistical Area | | | |
| Rome, GA Metropolitan Statistical Area | | | |
| Salisbury, NC Micropolitan Statistical Area | | | |
| Savannah, GA Metropolitan Statistical Area | | | |
| Seneca, SC Micropolitan Statistical Area | | | |
| Sevierville, TN Micropolitan Statistical Area | | | |
| Shelby, NC Micropolitan Statistical Area | | | |
| Shelbyville, TN Micropolitan Statistical Area | | | |
| Spartanburg, SC Metropolitan Statistical Area | | | |
| Starkville, MS Micropolitan Statistical Area | | | |
| Thomasville, GA Micropolitan Statistical Area | | | |

**REDACTED - FOR PUBLIC INSPECTION**

| MSA | ACTUAL SW ID | SWITCH Node/POI | UNE-P Units By CLEC |
|---|---|---|---|
| Troy, AL Micropolitan Statistical Area | | | |
| Tullahoma, TN Micropolitan Statistical Area | | | |
| Tupelo, MS Micropolitan Statistical Area | | | |
| Tuscaloosa, AL Metropolitan Statistical Area | | | |
| Tuskegee, AL Micropolitan Statistical Area | | | |
| Vero Beach, FL Metropolitan Statistical Area | | | |
| Vicksburg, MS Micropolitan Statistical Area | | | |
| Warner Robins, GA Metropolitan Statistical Area | | | |
| Waycross, GA Micropolitan Statistical Area | | | |
| Wilmington, NC Metropolitan Statistical Area | | | |

# BELLSOUTH REPLY COMMENTS

**WC Docket No. 04-313**
**CC Docket No. 01-338**

**October 19, 2004**

# Attachment 9

**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Unbundled Access to Network Elements | ) | WC Docket No. 04-313 |
| | ) | |
| Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers | ) ) ) ) | CC Docket No. 01-338 |

**REPLY AFFIDAVIT OF ALPHONSO J. VARNER**
**ON BEHALF OF BELLSOUTH TELECOMMUNICATIONS INC.**

**FILED OCTOBER 19, 2004**

Alphonso J. Varner, being duly sworn, deposes and says:

1. My name is Alphonso J. Varner. I am employed by BellSouth Telecommunications, Inc. ("BellSouth") as Assistant Vice President in Interconnection Services. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

## I. PROFESSIONAL EXPERIENCE AND EDUCATIONAL BACKGROUND

2. I graduated from Florida State University in 1972 with a Bachelor of Engineering Science degree in systems design engineering. I immediately joined Southern Bell in the division of revenues organization with the responsibility for preparation of all Florida investment separations studies for division of revenues and for reviewing interstate settlements.

3. Subsequently, I accepted an assignment in the rates and tariffs organization with responsibilities for administering selected rates and tariffs including preparation of tariff filings. In January 1994, I was appointed Senior Director of Pricing for the nine-state region. I was named Senior Director for Regulatory Policy and Planning in August 1994. In April 1997, I was named Senior Director of Regulatory for the nine-state BellSouth region. I accepted my current position in March 2001.

## II. PURPOSE OF THE AFFIDAVIT

4. The purpose of this affidavit is to respond to allegations by AT&T Corp. ("AT&T") that: (1) BellSouth's performance in providing special access services has been poor; and (2) AT&T has no assurances that BellSouth is providing "parity" with its special access services. I also will address AT&T's demand that the Commission adopt special access performance measures based on the CLECs' Joint Competitive Industry Group ("JCIG") proposal to which AT&T refers in its Comments.

## III. SPECIAL ACCESS PERFORMANCE

5. In its Comments dated October 4, 2004, AT&T makes several very broad claims regarding what it considers to be poor performance allegedly received from BOCs for special access services. In particular, AT&T alleges (p. 110) that BellSouth: (i) fails to provide firm order confirmations ("FOCs") for special access services on a timely basis, (ii) frequently misses installation commitments; and (iii) takes too long to repair or restore problem or trouble circuits. AT&T is mistaken, and its claims of alleged "poor performance" by BellSouth in providing special access services are belied by BellSouth's performance data. The August 2004 CLEC/IXC results for the measures discussed in this affidavit are included in Exhibit AJV-1 filed with this affidavit.

6. In its Comments (p. 110) and the Declaration of Alan G. Benway, Robert G. Holleron, Jeffrey King, Michelle E. Lesher, Michael C. Mullan, and Maureen Swift (pp. 19-20) ("Joint Declaration"), AT&T argues with respect to ILEC performance of special access services generally that "firm order confirmations are often not provided on a timely basis ...." This argument has no merit as it relates to BellSouth, which has provided a consistent level of excellent performance in returning FOCs. For example, during the period from May 2002 through August 2004, more than 92 percent of the FOCs from BellSouth to the CLECs/IXCs for DS-1 special access circuits were returned in less than one day. Another 3.3% of the DS-1 ASRs received a FOC in less than 2 days, and finally an additional 1.4% were returned within a 3 day period. Overall, during this 27-month period, 96.7% of the FOCs were returned to the CLECs/IXCs within 3 days of receiving the ASRs. This level of performance establishes that BellSouth does not take weeks or months to provide a response for special access service, as AT&T claims.

7. In its Comments (p. 110) and the Joint Declaration (pp. 19-20), AT&T claims with respect to ILEC performance of special access services generally that customer service is compromised because "... installation commitments are missed ...." AT&T purports to have produced "hard evidence" to support this claim, noting in footnote 11 of the Joint Declaration that "an analysis of RBOC self-reported data shows that, for

all RBOCs combined, DS1 on-time provisioning has remained relatively static (from 84.4% on time in February 2004 to 87.94% on time in August 2004)."

8. Unfortunately for AT&T, BellSouth-specific data tells a very different tale. From May 2002 through August 2004 BellSouth provisioned over 98% of all DS-1 special access circuits on time. This is a consistent level of excellent performance that belies any suggestion that BellSouth has "compromised" AT&T's ability to serve its customers.

9. In its Comments (p. 110) and the Joint Declaration (pp. 19-20), AT&T also claims with respect to ILEC performance of special access services generally that customer service is compromised because of the alleged "lengthy" period of "time to repair or restore problem or trouble circuits to normal operating levels ...." According to the Joint Declaration (footnote 11), "maintenance performance has continued to decline (*e.g.*, the percentage outage repairs within three hours was 61.89% in February 2002 and 58.35% in August 2004, and the percentage of circuits that failed within one month was 14.78% in February 2002 and 22.30% in August 2004)."

10. BellSouth's special access performance in this area has been excellent. The Average Repair Interval for special access circuits averaged 3.35

hours during the period from May 2002 through August 2004, with a low of 2 hours and 43 minutes to a high of 3 hours and 40 minutes. The trouble report rate for these special access DS-1 circuits averaged only 2.4% during this 27-month period. This means that over 97% (100% - 2.4% trouble rate) of the DS-1 special access circuits provisioned by BellSouth received trouble free service in an average month during this period. Again, AT&T's claims of "compromised" customer service ring hollow.

11. AT&T claims in the Joint Declaration (p. 21) that it "quite often must wait weeks or months to get a response for an order for special access service" and that while "AT&T's order has been delayed," BellSouth approaches the same customer and offers "to provide the necessary service" in a shorter period of time. Such claims are absolutely false, as evidenced by the performance data discussed above, which reflect that BellSouth returns FOCs promptly. Given that BellSouth returned more than 96 percent of the FOCs for DS-1 special access circuits from May 2002 through August 2004 within three days, it is obvious that BellSouth does not take "weeks or months" to provide a response for special access service, notwithstanding AT&T's claims to the contrary. Even in the unusual circumstance when a FOC is not returned for more than a day, BellSouth does not attempt to contact AT&T's customer with promises of quicker service from BellSouth, as AT&T alleges.

12. In an attempt to support its unfounded accusations that the special access performance it receives from BellSouth is poor, AT&T seeks to compare Special Access service levels to UNE service levels, claiming in the Joint Declaration (p. 22) that UNE provisioning is "well above the level AT&T receives when it buys special access from the RBOCs." However, as stated previously, and reflected in the data provided, BellSouth has provided a consistent level of excellent performance in special access provisioning. For example, from May 2002 through August 2004 over 98% of all DS-1 special access circuits were provisioned on time. Thus, AT&T's reliance upon UNE provisioning to illustrate alleged poor special access performance is misguided, even putting aside the obvious differences between UNEs and special access.

13. In a desperate attempt to prove a theory that lacks any credible facts, AT&T resorts to relying upon a filing made almost three years ago -- Declaration of Maureen A. Swift On Behalf of AT&T (Reply Comments of AT&T Corp. CC Docket No. 01-321, 2/12/02), ("Swift 2002 Declaration") -- in which AT&T discussed data from 1998 to 2002 to establish allegedly poor special access performance. Without regard to the accuracy of such data at the time, performance data that is up to six years old is seriously outdated and proves nothing. This is particularly true when more recent

data is available which reflects that BellSouth provisioned over 98% of all DS-1 special access orders on time with a 97% trouble free rate for the period from May 2002 through August 2004.

14. At the end of the day, AT&T's claims of poor special access performance are belied by available data. These data are reported using the metrics endorsed in the 272 Audit of BellSouth by the Joint Federal/State Oversight Team, which verified that BellSouth is providing service to competitors at parity with the service it provides to itself and its affiliates. That BellSouth is providing parity service to its competitors further undermines AT&T's unfounded allegations of "poor" special access performance.

## IV. SPECIAL ACCESS PERFORMANCE MEASURES

15. AT&T devotes considerable attention to the issue of special access performance measures, misstating or otherwise omitting critical facts in the process. For example, in the Joint Declaration (pp. 18 -19), AT&T contends that "[u]nlike when it purchases UNEs, AT&T is not guaranteed any performance 'parity' or other level of performance quality when it purchases special access services." As explained in the Affidavit of Nancy Starcher, many of BellSouth's special access offerings include numerous p erformance quality guarantees and contain provisions that

entitle the customer to credits if those guarantees are not met. Thus, AT&T's suggestion that it cannot obtain special access service guarantees from BellSouth is false.

16. Equally false is AT&T's claim, premised upon a January 22, 2002, filing by Time Warner and XO Communications in CC Docket No. 01-321, that BellSouth has "refused to negotiate meaningful performance standards or provide meaningful remedies." As AT&T is well aware, BellSouth subsequently reached agreement with Time Warner on "meaningful performance standards." In f act, in Au gust 2002, BellSouth and Time Warner filed with this Commission a comprehensive, negotiated proposal to resolve the issue in Dockets 01-321 and 01-338[1] that involved both special access measurements and certain agreed-upon UNE relief.[2]

17. In its joint Declaration (p. 19), AT&T references CC Docket 01-321, in which the Commission is considering whether to adopt special access performance measures, including AT&T's insistence upon "benchmark performance standards ... rather than the application of the 'parity' standard set forth for UNEs under the Act." Although it is unclear what

1 *Performance Measurements and Standards for Interstate Special Access Services*, CC Docket No. 01-321; *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338.

2 *See* Letter from William W. Jordan, Vice President-Federal Regulatory, BellSouth, to Marlene H. Dortch, Secretary, FCC, and attached *ex parte* presentation (dated Aug. 26, 2002).

bearing AT&T's demands in another docket pending before the Commission have in this proceeding, AT&T's desire for benchmarks is not rooted in any rule or law established by Congress or by this Commission. Rather, it is an attempt by AT&T to legislate performance terms for BOCs for the benefit of CLECs, which are more appropriately handled through CLEC and ILEC negotiations.

18. The issue of special access performance measures has been raised in a variety of contexts, and BellSouth has proposed to the Commission a focused, uniform set of measures that can be used to monitor special access performance. On April 28, 2004 and June 9, 2004, BellSouth met with members of the Wireline Competition Bureau's Competition Policy Division to discuss BellSouth's proposal that the Commission adopt a single set of "harmonized" performance metrics that the Commission should use to address the concerns of four dockets: 1) Non-Accounting Safeguards, Docket 96-149, Switched/Special Access (the Commission proposed in this docket the 272(e)(1) metrics in the 1996 Non-structural safeguards NPRM, but no order was issued); 2) Special Access, Docket 01-321 (In 2001, the Commission, pursuant to this docket, sought comments o n t he benefits an d standards f or adopting special ac cess performance metrics – rulemaking is still open); 3) Dom/Non-Dom, Docket 02-112, Special Access (In 2002, the Section 272 Dom/Non-Dom proceeding was concerned with whether additional safeguards are

necessary before allowing integration of long distance into the BOCs); and 4) BellSouth 272 Biennial Audit, Docket 03-197, Switched/Special Access (Six BOC biennial audits have been conducted without codified metrics, and metrics continue to be contentious and inconsistent).

19. In the course of these proceedings, just as expressed in its current Comments and Joint Declaration, AT&T continually seeks to establish benchmark standards rather than using the parity standard. This is the theme in the JCIG proposal to which AT&T refers in its Comments. Unfortunately for AT&T, its desire for benchmarks over the parity standard is without any support.

20. A parity standard is the <u>only</u> appropriate standard because it is the standard mandated by Sections 251 and 272. Three of these four dockets referenced above in which special access performance measures are being considered are direct outgrowths of the 1996 Act, and its requirement that all BOCs provide nondiscriminatory access to competitive carriers. When the Commission first determined how to apply the nondiscrimination requirement in the *Local Competition Order*[3] almost

[3] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers,* CC Docket Nos. 96-98 & 95-185, *First Report and Order,* 11 FCC Rcd 15499 (1996) ("*Local Competition Order*").

eight years ago, it clearly stated that a parity standard must be used, where available, to determine whether prohibited discrimination exists:

> We believe that the term "nondiscriminatory," as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties as well as on itself. In any event, by providing interconnection to a competitor in a manner less efficient than an incumbent LEC provides itself, the incumbent LEC violates the duty to be "just" and "reasonable" under section 251(c)(2)(D).[4]

In the eight years since the issuance of the *Local Competition Order*, the Commission has never wavered from the use of this parity standard, nor has it ever used objective standards without regard to parity, as JCIG advocates.

21. Further, in the docket that addresses special access measures specifically, and the only docket that is not a direct outgrowth of the 1996 Act, the Commission issued a *Notice of Proposed Rulemaking* in which it addressed specifically the relationship of the requirement of sections 201 and 202 to provide just and reasonable service to the requirements of section 252:

> ... [I]n the *Local Competition Order* the Commission noted that the nondiscrimination requirement in section 251(c)(2) is not qualified by the "unjust or unreasonable" language of section 202(a), and therefore concluded that congress intended the term "nondiscriminatory" in section 251 to signify a more stringent standard than the phrase "unjust and

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4 *Id.* at 15612, ¶ 218.

> unreasonable discrimination" in section 202 of the 1934 Act. Given this, the Commission interpreted section 251's nondiscrimination requirement to require parity of performance between an incumbent LEC and its competitors. [5]

Thus, the Commission noted its earlier decision that the parity standard required under Section 251 is higher than the pre-existing "just and reasonable" standard under section 202.

22. Also, as noted in the *NPRM*, "Section 272(e)(1) provides additional authority for the Commission to apply measures, standards, and reporting requirements to the provisioning of interstate special access services by BOCs."[6] The *NPRM* then noted that Section 272(e) requires the BOC to provide access service "within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates."[7] In other words, Section 272 also applies a parity standard to the provision of access services.

23. By advocating the JCIG approach, AT&T is attempting to misuse special access measurements as a means to extract from the BOCs, at no

5 *Performance Measurements and Standards for Interstate Special Access Services, et al.*, CC Docket No. 01-321, *et al.*, *Notice of Proposed Rulemaking,* 16 FCC Rcd 20896, 20901, ¶ 9 (2001) ("*NPRM*"), citing *Local Competition Order,* 11 FCC Rcd at 15612, ¶ 217.

6 *Id.* at 20901, ¶ 10.

7 *Id.* n.23 (emphasis added).

charge, certain items that would otherwise be included in the negotiated contracts for access services, such as enhanced service level guarantees, penalty p ayments a nd det ailed c arrier-specific da ta r eports, a nd o ther items that BellSouth would not be able to cost effectively provide. In particular, AT&T is seeking shorter intervals and service levels that are dramatically higher than the marketplace warrants.

24. For example, AT&T argues for measurements to be used to provide service levels that generally exceed the service levels that the marketplace is demanding and for which carriers are willing to pay. Customers of special access services always have the option of purchasing generally available tariffed services. Also, BellSouth has negotiated and entered into numerous pricing flexibility contract tariffs with special access customers. These agreements contain specific negotiated service levels and provide, at the customer's option, a customized set of reports that are created to meet the specific needs of the customer. BellSouth also provides its special access customer with a service installation guarantee, and a service assurance warranty that provide for financial consequences if the service fails to meet the contracted standard. AT&T's proposal bypasses these contractual ar rangements entirely, which is grossly inappropriate in a competitive market such as the market for special access services.

25. In addition to being without support and an attempt to circumvent the negotiation process, performance measured against benchmarks would be misleading because of seasonality and events beyond BellSouth's control, such as severe weather. Also, the benchmarks proposed by AT&T and JCIG are arbitrary, unrealistic and burdensome. For example, JCIG proposes to measure the degree to which the Due Date provided on the FOC sent by BellSouth matches the D ue Date requested by the customer when the requested date is not less than the specified standard interval. The benchmark that AT&T proposes for this measure is 100%; i.e., the **minimum** acceptable level of performance is perfection. BellSouth applies the same processes to serve affiliates and non-affiliates in the area of special access. Consequently, analogs do exist, and these analogs can and should be used in assessing nondiscriminatory quality and timeliness of performance, rather than the arbitrary benchmarks advocated by AT&T.

26. Beyond the inherent suitability of the parity standard, there is a practical consideration that supports its use in assessing special access performance. Specifically, unless the Commission adopts a parity standard, it will be unable to find a common solution to the issues posed by the four dockets to which I already made reference. BellSouth believes that the set of special access measures it has proposed is

reasonable, and is based on suitable parity standards, which will enable the Commission to sufficiently and efficiently address the concerns of all four dockets as well as the concerns raised by AT&T.

Further affiant sayeth not.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

AJ Varner

Alphonso J. Varner
Assistant Vice President
Interconnection Services

Subscribed and sworn to before me

This 18th day of October, 2004

Gay P. Ditz

Notary Public

Gay P. Ditz
Notary Public, DeKalb County
Georgia
My Commission Expires
February 09, 2007

WC Docket No. 04-313
CC Docket No. 01-338

# Varner Reply Affidavit

# Reply Exhibit – AJV - 1

# Region - August 2004
# 272 Special Access / Switched Access - Ordering
## FOC Timeliness
**(% of FOCs <= 1 day)**

**Numerator indicates total number of firm order confirmation intervals for this disaggregation in the reporting period.**
**Volume indicates total number of orders received for this disaggregation within the reporting period.**

**V.1.1.6.1 DS1/Region (%)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 90.44% | 10,093 | 11,160 |

## FOC Timeliness
**(% of FOCs > 1 <= 2 days)**

**V.1.2.6.1 DS1/Region (%)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 4.64% | 518 | 11,160 |

## FOC Timeliness
**(% of FOCs > 2 <= 3 days)**

**V.1.3.6.1 DS1/Region (%)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 1.56% | 174 | 11,160 |

# Region - August 2004
# 272 Special Access / Switched Access - Provisioning
# % Installation Appointments Met

**(% of installation appointments met within the reporting period)**

**Numerator indicates total number of installation appointments met within reporting period.**

**Volume indicates total number of orders received for this disaggregation within the reporting period.**

**R.2.7.6.1 DS1/Region (%)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 96.51% | 7,136 | 7,394 |

## Average Repair Interval

**(Average Trouble Duration)**

**Numerator indicates total time to complete repairs for this disaggregation within the reporting period.**
**Volume indicates total number of reports for this disaggregation within the reporting period.**

**R.3.9.6.1 DS1/Region (hours)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 3.35 | 26,055 | 7,773 |

## Trouble Report Rate

**(% of Total Troubles Reported)**

**Numerator indicates total number of troubles reported for this disaggregation within the reporting period.**
**Volume indicates the trouble base for this disaggregation within the reporting period.**

**R.3.10.6.1 DS1/Region (%)**

| | Non-Affiliates | Numerator | Volume |
|---|---|---|---|
| Aug-04 | 2.73% | 7,773 | 284,325 |